IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

OP.No. 8648 of 2002(D)

PETITIONER:

E.P. GOPINATHAN, PUMP OPERATOR
(SKILLED WORKER GRADE II), BANASURASAGAR
PROJECT SECTION NO.I, PADINJARATHARA,
WAYANAD DISTRICT.

BY ADV. SRI.P.K.SURESH KUMAR
SRI.K.P.SUDHEER

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY**
   ITS SECRETARY, DEPARTMENT OF PUBLIC WORKS,
   THIRUVANANTHAPURAM.

2. **THE CHIEF ENGINEER, PWD ADMINISTRATION,**
   THIRUVANANTHAPURAM.

3. **THE ASSISTANT EXECUTIVE ENGINEER,**
   BSP SUB DIVISION NO.I, PADINJARATHARA,
   WAYANAD DISTRICT.

BY GOVERNMENT PLEADER SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29 /06/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.8648/2002

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE GO(P) NO.6/90/PW&T DT. 20.1.1990 ISSUED BY GOVERNMENT OF KERALA.

EXT.P2:- COPY OF THE LETTER NP.7045/8/90/PW&T DT. 3.4.90 FROM THE COMMISSIONER & SECRETARY TO THE GOVERNMENT TO THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE ORDER NO.20151/B1/2000/PWD DT. 2.11.2000 ISSUED BY THE GOVERNMENT.

EXT.P4:- COPY OF THE JUDGMENT DT. 13.8.01 IN OP. NO.6046/01 OF THIS HONOURABLE COURT.

EXT.P5:- COPY OF THE NO.EE2-48479/96 DT. 19.10.01 ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.8648 of 2002-D

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Dated this the 29th day of June, 2007.

JUDGMENT

Petitioner was working on hand receipt basis and thereafter on CLR basis. Going by Exts.P1 and P2, his HR service is entitled to be clubbed with CLR service for appointment to regular service. By Ext.P3, such request was refused. He moved this Court and the Government were directed to consider the case of the petitioner. Accordingly, Ext.P5 is issued accepting his claim for regularisation, however granting regularisation without retrospective effect. This is plainly illegal because, his entitlement was to be regularised at least from the date on which his immediate junior in the CLR seniority list was regularised. From such date of regularisation, he is entitled to all attendant benefits, including arrears towards emoluments. His retiral benefits are also to be re-fixed accordingly.

2. The learned Government Pleader contended that the

entitlement may be limited to pensionary benefits. I would have resorted to that course, had the petitioner belonged to the higher cadres in Government service. He was only working on hand receipts and thereafter, as CLR worker. The quality of educational standard and financial resources for such persons to know their rights under the service laws and proceed to litigate are not of such quality which could inspire this Court to refuse them the due reliefs which they are entitled to.

In the result, this writ petition is allowed directing that the petitioner's date of regularisation will be the date on which his immediate junior in the CLR seniority list was regularised and he will be given all attendant benefits thereto, including arrears of back-wages after giving due credit to any amounts released to him under HR or as the CLR. His retiral benefits will also be re-fixed accordingly. The directions contained in this judgment shall be carried out within three months from the date of receipt of a copy of this judgment. No costs.

Sd/-

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 8648 of 2002-D

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JUDGMENT

Dated: 29th June, 2007.